

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

November 21, 2002

GSBCA 15875-RELO

In the Matter of MARLENE J. WALTERS

Marlene J. Walters, Cheyenne, WY, Claimant.

Vickie Smith, Travel Supervisor, Bureau of Land Management, National Business Center, Denver, CO, appearing for Department of the Interior.

HYATT, Board Judge.

Claimant, Marlene J. Walters, is an employee of the Bureau of Land Management within the Department of the Interior. She seeks review of the Bureau's disallowance of her request that she not be required to reimburse the agency the entire cost of transporting and storing her household goods in expectation of a transfer from Cheyenne, Wyoming, to Las Vegas, Nevada. The move did not occur because Ms. Walters did not successfully complete training that was a prerequisite to qualifying for the transfer. For the reasons stated, we affirm the agency's decision.

Background

In late December 2000, claimant was advised that she had been selected for the Bureau's upward mobility program and would be eligible for training for the position of realty specialist by attending the Lands and Realty Academy in 2001. The Academy is located at the Bureau's National Training Center in Phoenix, Arizona. The first module of that training was to commence on March 7 and end on May 22, 2001. In a letter dated January 22, 2001, confirming Ms. Walters' selection for training and possible advancement within the agency, claimant was told:

While attending Module 1, you will continue to be an employee of your current office for pay and other administrative purposes. Your current office will be responsible for preparing your travel authorization to and from Phoenix. Upon successful completion of Module 1, you will return to your home office. From there you will be reassigned into the trainee position of Realty

Specialist . . . in the Las Vegas Field Office. The effective date of your reassignment will be June 17, 2001.

The selection letter also provided a summary of the benefits related to claimant's selection for training and advised her to promptly contact the individuals listed to receive important information regarding her travel and relocation benefits. Additionally, Ms. Walters was cautioned not to incur any costs associated with the transfer prior to issuance of the appropriate travel authorization.

Ms. Walters did not want to sell her home in Cheyenne, but preferred to rent it out when she moved to Las Vegas. Thus, after receiving the selection letter, Ms. Walters determined that she should store her household goods (HHG) immediately, while she attended the training course in Phoenix, so that the house could be rented promptly and she would not risk the possibility of having to pay the mortgage on an empty house while simultaneously incurring costs for accommodations in Las Vegas. She contacted the Bureau's Denver office, which was to handle her PCS move to Las Vegas, to see if the agency would handle the storage of the HHG while she was in Phoenix. The Denver office of the Bureau informed her that the Bureau used Graebel Movers to transport household goods in PCS moves, and, that to accomplish what she wanted, Graebel would have to pick up the HHG and transport them to Denver for storage until Ms. Walters was ready to move to Las Vegas. Ms. Walters inquired whether her HHG could be stored temporarily in Cheyenne, which she would have preferred, but was told that the Denver office would not be able to arrange this for her. The Denver office issued travel authorization for three months of temporary storage and, in an electronic mail exchange with this office, Ms. Walters confirmed her understanding that if she did not relocate to the new duty station in Las Vegas she would be responsible for reimbursing the agency for the costs associated with storing her HHG in Denver while she attended training in Phoenix. Ms. Walters also provided a signed copy of her statement.

Due to personal circumstances, Ms. Walters was unable to complete Module 1 of her training. Since that was a prerequisite for the transfer to the new position in Las Vegas, she was ineligible to go forward with the PCS move. The agency notified her that she would not complete the course on May 10, 2001, and cancelled her planned transfer as of May 17, 2001. Upon returning to Cheyenne, Ms. Walters contacted the Bureau's Denver office to determine what arrangements she could make with respect to her HHG held in storage at the Graebel facility in Denver. At that time she was told that the monthly storage charge was \$450, but she was not made aware of any additional charges associated with the packing, hauling, and storage of her HHG.

Ms. Walters subsequently arranged to have her HHG moved by Graebel to another storage facility in Denver with which she had contracted. She heard nothing further about the costs until March 2002, when she received a bill for the amount of \$7079.63 from the Bureau. She then learned for the first time that, in addition to the monthly charge for storage, she had incurred a substantial expense for line-haul charges associated with the trip from Cheyenne to Denver to store the HHG en route to Las Vegas, as well as a charge for moving the HHG from the Graebel storage facility in Denver to the one Ms. Walters had located in that city.

Ms. Walters filed an objection to the amount of the bill with the Bureau, pointing out that she had tried to have her HHG stored in Cheyenne and had only agreed to Denver because she was told that was the only option. In addition, she had never been informed about the high line-haul charges incurred to transport the HHG to Denver for temporary storage. She also pointed out that no one told her that had she asked for long term storage at the Graebel facility, instead of temporary storage, the total amount of charges would have been substantially lower, and she could have avoided the cost of transporting the HHG across town.

The Bureau declined to adjust or waive any of the charges, and Ms. Walters requested the Board's review. In her request for review, Ms. Walters notes that in addition to the points made in her request for relief from the agency, she has also learned that the agency erroneously told her it would not be possible to store the HHG in Cheyenne, as she had preferred. In fact, according to Ms. Walters, it would have been possible to subcontract for temporary storage from a local firm, which would have avoided the line-haul charges for transporting the HHG to Denver.

Discussion

Both the claimant and the agency agree that Ms. Walters is obligated to reimburse the agency for the costs incurred in storing her HHG pursuant to an authorized PCS move that was never effected for reasons that are not attributable to any action of the Government. See 41 CFR 302-1.5(a) (2000). Claimant's position is that she should not have to pay such a large amount given that she was not properly informed about her options either initially or after she learned she would not complete the course. Ms. Walters recognizes that she would have incurred the packing and storage charges under any circumstances, but argues that she should not have to pay the transportation costs to move the HHG from Cheyenne to Denver and then across Denver to another storage facility because she was never properly informed about her options 1) to store the HHG in Cheyenne, and 2) to convert to long term storage at the Graebel facility in Denver to save on the monthly storage charge for temporary storage.

Although the agency sympathizes with the fact that Ms. Walters may not have fully understood what the storage charges would entail when she asked the Government to store her HHG prior to the PCS move, the Bureau nonetheless maintains that, under applicable regulations, claimant owes the full amount charged. She was well aware that if she did not successfully complete her training, she would be required to repay the costs of temporarily storing her HHG, and, the agency points out, possible inadequacies or errors in the information or advice provided by Bureau employees does not affect this obligation. See Richard P. Crane, GSBCA 15782-RELO (Aug. 7, 2002); Craig W. Sherman, GSBCA 15715-RELO, 02-2 BCA ¶ 31,959. Thus, there is no basis for reducing the charges as claimant requests.

We agree with the agency's position. There is no legal authority that would permit the Board to adjust the charges incurred by claimant because of possible inadequacies or errors in the advice provided by the employees assisting Ms. Walters with her planned PCS move. The agency, like claimant, assumed the goods would ultimately be shipped to Las Vegas, where Ms. Walters expected to be transferred, and simply agreed to accommodate Ms. Walters's request that her HHG be stored in advance of the move. Nothing in the record

suggests that storing the HHG in Denver would excessively increase the overall cost of such a move to the Government.¹ The agency was not obligated to determine and select a means of storing the HHG that would benefit Ms. Walters should she for some reason be unable to complete the anticipated PCS move. Ms. Walters assumed the risk that she would have to repay any costs incurred by the Government should she be unable to effect the planned transfer. Thus, even if she was not fully advised of, or offered, other options, this does not entitle claimant to a reduction in the amount she is required to reimburse the Government. The Government was not authorized to pay these costs in the event claimant did not complete her PCS move.

Ms. Walters also asks that the Board waive the additional amounts incurred for transportation of the HHG. This is a prerogative that rests solely with the agency, however. Under applicable law, the agency may consider exercising the authority it has to waive repayment of this cost if it concludes that collection would be "against equity and good conscience and not in the best interests of the United States" and if there is no indication of "fraud, misrepresentation, fault, or lack of good faith" on the part of the person whose debt is requested to be waived. 5 U.S.C. § 5584(a)(2)(A) (2000). See, e.g., Jennings W. Bunn, Jr., GSBCA 15656-TRAV, 02-2 BCA ¶ 31,930; Brian Johnson, GSBCA 15316-RELO, 01-1 BCA ¶ 31,337; Gerald A. Sherman, GSBCA 13791-TRAV, 97-2 BCA ¶ 29,299. The exercise of this authority is committed entirely to the discretion of the agency, however, and is not within the purview of this Board's review function.²

CATHERINE B. HYATT
Board Judge

¹ Denver is due south of Cheyenne and northeast of Las Vegas. It would not be unreasonable, nor out of the way, for a moving company to haul the HHG from Cheyenne to Las Vegas by way of Denver to take advantage of major highways.

² In responses to claimant and the Board, the travel supervisor declines to waive the charges as requested, but it is not clear that this constitutes a ruling on the matter by the head of the agency or his or her delegee. Claimant thus may want to seek further recourse with a formal request for waiver directed to the head of the agency.